



W.P. No.5008/2016

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

| Reserved on | Pronounced on |
|-------------|---------------|
| 03.07.2023  | 14.07.2023    |

**CORAM**

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

**W.P. NO.5008 OF 2016**

1. Sivaraj. S
2. Krishnamoorthy. P
3. Paunkumar. G
4. Mathivanan. G
5. Vinoth.L
6. Soma Sundaram.J
7. Ruba Sankar.D
8. Sankar.S
9. Ugendra Babu.D
- 10.Venkatesh.D
- 11.Sudhakar.R
- 12.Dinesh Kumar.B
- 13.Malarkodi.M
- 14.Gopu.V
- 15.Vinoba.R
- 16.Vimalraj.A
- 17.Dinesh.M
- 18.Selva Kumar.K
- 19.Mageshwaran.K
- 20.Kumaresan.K
- 21.Karthikeyan.S
- 22.Deva Kumar.L
- 23.Devaraj.M



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24. Veerasamy.G
25. Arun Kumar.R
26. Rajesh Kumar.S
27. Ponni.N
28. Babu.L
29. Prabhu.M
30. Sekar.E
31. Saran Raj.S
32. Sasi Kumar.C
33. Raghul.P
34. Sakariya.S
35. Anbarasan.M
36. Mohan Raj.L
37. Anbarasan.M
38. Sivaraj.N
39. Rajesh.P
40. Ambika.V
41. Gopi.V
42. Thalpathi.V
43. Manivannan.G
44. Shankar.P
45. Kannan.K
46. Kanniyappan.S
47. Murugan.A
48. Rajesh.S
49. Kumaran.M
50. Balaji.B
51. Sathish Kumar.K
52. Siva Kumar.P
53. Suresh.R
54. Naga Booshanam.M
55. Palani Vel.S
56. Rajesh Kumar.B
57. Loganathan.M
58. Kanagaraj
59. Suresh Babu.P



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60. Arul Kumar.D
61. Raja.S
62. Rajesh.S
63. Darjan.D
64. Jayavelu.V
65. Sakthivel.K
66. Anbarasan.M
67. Balachandiran.K.M
68. Kumaresan.P
69. Yuvaraj.S
70. Ananda Gopal.V
71. Karthikeyan.K
72. Nithiyanantham.V
73. Siva Sankaran.B
74. Bala Murugan.V
75. Umapathy.S
76. Muthu.K
77. Manikandan.P
78. Karthik.V
79. Udhesan.S
80. Sirajudeen.M
81. Siva Kumar.A
82. Sugumar.P
83. Suresh.V
84. Murugavel.K
85. Krishna Moorthy.P
86. Rajiv Gandhi.G
87. Kothandapani.A
88. Vinoth.C
89. Parthiban.R
90. Manimaran.H
91. Pichandi.C
92. Iyappan.A
93. K.Vijaya Kumar
94. Arul Raj.B
95. Subash Chandra Bose.A



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96. Kamala Kannan.K
97. Mohan.M
98. Baradhan.C
99. Raja Sekar.P
100. Sakthi.U
101. Elangovan.L
102. Nagarajan.S
103. Gopi.M
104. Jeevanarasu.R
105. Venkatesan.M
106. Thoniyappan.K
107. Magesh.M
108. Lokesh.V
109. Ganesan.A
110. Dinesh.V
111. Sathiyathan.E
112. Sakthivel.S
113. Selvaraj.N
114. Vel Murugan.K
115. Gnanavel.S
116. Prabhakaran.S
117. Vijaya Kumar.B
118. Palani.S
119. Karthik.M
120. Thenmozhi.K
121. Gomathi.G
122. Michael.G
123. Murugan.K
124. Balan.M.S
125. V.Ashok
126. Suresh.V
127. Shanmugam.V
128. V.Satheesh Kumar
129. Manivanan.S
130. Raj Kumar.K.S
131. Ramachandran.R



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- 132.Munuswamy.T
- 133.Sakthi Saravanan.A
- 134.Srinivasan.R
- 135.Sudaresan.K
- 136.Kumar.E
- 137.Thulasi.R
- 138.Baskaran.R
- 139.Vembu.J
- 140.Gaja Lakshmi.D
- 141.Ragu.P
- 142.Thirunavukarasu.M
- 143.Gajendiran.M
- 144.Giridharan.Y
- 145.Baskar.K
- 146.G.Jayakumar
- 147.Dilli Babu.D
- 148.Ramesh.M
- 149.Kumaresan.L
- 150.Naveen Kumar.S
- 151.Karthikeyan.J
- 152.Srinivasan.S
- 153.Hari Krishnan.P
- 154.Sundharraj.D
- 155.Rajesh.M
- 156.Ganesh.S
- 157.Vijaya Kumar.D
- 158.Sampath Rajesh
- 159.Bala Krishnan.S
- 160.Dhayalan.J
- 161.Arun.P
- 162.Thanthoni.R
- 163.Thanga Raj.S
- 164.Raja.V
- 165.Manikandan.N
- 166.Velmurugan.S
- 167.Murugan.A



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- 168.Ashok.C
- 169.Sakthivel.K
- 170.Arul.D
- 171.Prabhakaran.S
- 172.Vinoth Kumar.R
- 173.Kalidasan.R
- 174.Rajesh.P
- 175.Sudhakar K
- 176.M.Ramarakan
- 177.Mahendra Kumar.U
- 178.Yakesh.K
- 179.K.Yuvaraj
- 180.Devi.M
- 181.Sakunthala.S
- 182.Kothandan.N
- 183.Karthikeyan.M.K
- 184.Amuthuvalli.R
- 185.Panneer Selvam.S
- 186.Saravana Kumar.M
- 187.Shanmugam.T
- 188.Andrews.R
- 189.Mohan Raj.T
- 190.Dhamodharan
- 191.S.Murali
- 192.Karthikeyan.M
- 193.Ramesh.G
- 194.Madhan Raj.S
- 195.Jagadesh.E
- 196.Mathivanan.G
- 197.Guna Sekaran.V
- 198.Raghuvaran.C
- 199.Sasi Kumar.K
- 200.Sargunan.S
- 201.Ravichandran.A
- 202.Ramachandran.N
- 203.Malik Basha.K



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- 204.Sathish Kumar.M
- 205.Nithyanandan.S
- 206.Ramachandran.C
- 207.Anandan.M
- 208.Vinoth.D
- 209.Palani.I
- 210.Tamil Selvan.K
- 211.Sudhakar.K
- 212.Janarthanan.D
- 213.Rajesh Kumar.P
- 214.Arumugam.C
- 215.Dilli Babu.S
- 216.Vinoth.M
- 217.Jothi Kannan.V
- 218.Hari.P
- 219.Anand.K
- 220.Purushothaman.M
- 221.Raja.R
- 222.Dilli Babu.D
- 223.Gopinath.V
- 224.Loganathan.D
- 225.Dhanasekaran.K
- 226.Manikandan.P
- 227.Seetharaman Dhatchayani
- 228.Prakasam.M
- 229.Veeraragavan.V
- 230.Murali.S
- 231.Kalpana.D
- 232.Janaki Raman.M
- 233.Menaga.K
- 234.Ganapathi.S
- 235.Arul Kumar.A.D
- 236.Visu.K
- 237.Madhan Raj.G
- 238.Bharathi.V
- 239.Thulasiraman.R



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- 240.Prabhu Kumar.S
- 241.Lakshmi.S
- 242.Rekha.N
- 243.Siva.P
- 244.Parthiban.M
- 245.Vinoth.N
- 246.Rajesh.P
- 247.Gopinath.S
- 248.Shabeer.A
- 249.Ekaraj.R
- 250.Murugan.G
- 251.Mugilarasu.V
- 252.Anbalagan.R
- 253.C.Dinesh
- 254.Manikandan.E
- 255.Jaya Prakash.K
- 256.Velayutham.K
- 257.Maria Dass.J
- 258.Balaji
- 259.Dhandapani.G.S
- 260.Suresh.K
- 261.Satheesh Kumar.P
- 262.Jayachandran.M
- 263.Siva.V
- 264.Srinivasan.P
- 265.Suguna.C
- 266.Rani.G
- 267.Kumaran.D
- 268.Pradhaban.D
- 269.K.Rajini
- 270.Dhanakotti.R
- 271.Vinoth Kumar.B
- 272.A.Agilan
- 273.Siva Kalai.S
- 274.Raja Sekar.A
- 275.James Raj.C



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- 276.Suganya.E
- 277.Manoharan.R
- 278.Mohan Raj.P
- 279.Ravikumar.R
- 280.Salan Raj.G
- 281.Madhavan.D
- 282.Venkateraman.R
- 283.Delli Babu.K
- 284.Senthil Kumar.E
- 285.Jayapal.D
- 286.Umapathy.V
- 287.Sundar.T
- 288.Muniyandi.M
- 289.Vinayagam.R
- 290.Nagaraj.S
- 291.Senthilkumar.R
- 292.Dhamodharan.R
- 293.Dilli Babu.R
- 294.Muthu Kumar.R
- 295.Babu.J
- 296.D.Dinesh
- 297.Imran.G
- 298.Viswanathan.D
- 299.Ganapathi.M
- 300.N.Murali
- 301.Tamilarasan.S
- 302.Mahavishnu.K
- 303.Prakash.M.V
- 304.Jaya Prakash Narayanan.N
- 305.Krishan.K
- 306.Amirthavalli
- 307.Kalaiyarasi
- 308.Paul Abraham.S
- 309.Manikandan.P
- 310.Helen Beula.C
- 311.Senthil Kumar.R



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312.Balaji.M  
313.M.Elumalai  
314.Nagarajan.N  
315.Kumar.S  
316.Arasukumar.A  
317.K.Gurumurthi  
318.Prakash.A.S  
319.Ramesh.B  
320.Govindasamy.L  
321.Ramesh.R  
322.Rajesh.K  
323.Sudhakar.G  
324.Suresh.S  
325.Udhayakumar.R  
326.Sivakumar.S  
327.Saravanan.A  
328.Iyyappan.V  
329.Balasundaram.L  
330.Chandrasekar.K  
331.Manigandan.R  
332.Durga.R  
333.Bharathi.S  
334.N.Uma

.. Petitioners

- Vs -

1. State of Tamil Nadu  
Rep. by its Prl. Secretary to Government  
Ministry of Labour & Employment  
Secretariat, Fort St. George  
Chennai 600 009.

2. Assistant Labour Commissioner  
Sriperumbudur (Conciliation) – 1  
Irungattukottai, Sriperumbudur Taluk  
Kanchipuram District 602 117.



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3. The Management of Foxconn India  
Holding Pvt. Ltd., rep. by its  
Managing Director  
Nokia Telecom SEZ  
SIPCOT Industrial Park Phase III  
A1-Chennai – Bangalore Highway (NH4)  
Sriperumbudur 602 105.  
Kanchipuram District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India  
praying this Court to issue a writ of certiorarified mandamus calling for the  
records of the 2<sup>nd</sup> respondent dated 10.10.2015 in Ref. No.Na.Ka.A/547 to  
938 & 987 to 1080 and 1093 to 1095 and 1161/2015 and quash the same and  
consequently direct the 2<sup>nd</sup> respondent to submit a failure report so as to  
enable the petitioners to raise an industrial dispute before the appropriate  
Labour Court.

For Petitioner : Mr. N.G.R.Prasad, for  
M/s.Row & Reddy

For Respondents : Mr. P.Kumaresan, AAG  
Assisted by Mr. S.John J.Rajasingh  
AGP for RR-1 & 2  
Mr. S.Ravindran, SC, for  
M/s.S.Bazeer Ahamed for R-3

**ORDER**



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Assailing the order passed by the 2<sup>nd</sup> respondent in and by which the settlement entered into by the recognized Union was held to be valid, the present writ petition has been filed.

2. It is the case of the petitioners that they are employed under the 3<sup>rd</sup> respondent as workers and it is alleged that they are paid wages, far below the amount contemplated under the Minimum Wages Act. It is the further case of the petitioners that on 24.8.2010, a charter of demand for wages, dearness allowance, etc., was placed on the 3<sup>rd</sup> respondent and the 3<sup>rd</sup> respondent had addressed the 2<sup>nd</sup> respondent stating that they are agreeable for negotiation with whichever Union that commands majority. It is the further case of the petitioners that the Union to which the petitioners belong is affiliated with CITU and the other is affiliated with the Labour Progressive Union. Due to certain unforeseen incident in the factory, all the workers resigned from the Labour Progressive Union and became members of the union in which the petitioners were members.



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3. It is the further case of the petitioners that since the grievances of the workers were long pending, strike notice was issued by the Union on 6.10.2010 and on 22.9.2010. After series of correspondence between the officials and the 3<sup>rd</sup> respondent, the 3<sup>rd</sup> respondent was willing to recognize whichever Union that commanded majority and the 3<sup>rd</sup> respondent was also willing to conduct elections.

4. As no election was conducted by the 2<sup>nd</sup> respondent inspite of the communication of the 3<sup>rd</sup> respondent, the petitioners filed W.P. No.24353 of 2010 and vide order dated 4.1.2011, the writ petition was allowed and direction was issued to conduct elections. Aggrieved by the said order, W.A. No.166 of 2011 was filed, which was dismissed on 31.01.2013 and the SLP No.13275/2013 filed against the said order was also dismissed on 8.8.2014. Thereafter, elections were conducted and the Union to which the petitioners belong was declared as having elected.

5. It is the further case of the petitioners that notice was put up on 24.12.2014 by the 3<sup>rd</sup> respondent informing about the suspension of



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operation of the factory, challenging which an industrial dispute was raised before the 2<sup>nd</sup> respondent. Pending the dispute, the 3<sup>rd</sup> respondent credited the amount due to the workers in their bank account without their consent and though the workers tried to return the amount, however, the 3<sup>rd</sup> respondent refused to receive it.

6. It is the further case of the petitioners that the 3<sup>rd</sup> respondent convened a meeting with CITU Union along with two other Unions in which it was informed that the 3<sup>rd</sup> respondent wanted to enter into a settlement u/s 18 (1) of the Industrial Disputes Act to which it was informed by the CITU Union that the decision of the majority in the General Body will be accepted. It is the further averment of the petitioners that on 12.2.2015, the settlement was entered into between the 3<sup>rd</sup> respondent and the CITU Union in which the Union has specifically stated that the said acceptance/rejection of settlement will be subject to the majority decision in the General Body.

7. It is the further averment of the petitioner that the meeting of the General Body was conducted on 13.2.2015 in which the majority of the



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workers did not sail along with the settlement, which factum was also communicated to the 3<sup>rd</sup> respondent. It is the further case of the petitioners that the 3<sup>rd</sup> respondent prevented the workers from entering the factory and also sought to remove the goods and raw materials with the help of police.

8. The 2<sup>nd</sup> respondent, called upon the 3<sup>rd</sup> respondent to file a reply with regard to the dispute raised by the workers and after hearing the parties, the 2<sup>nd</sup> respondent, vide order dated 10.10.2015, closed the dispute. It is the further averment of the petitioner that the 2<sup>nd</sup> respondent has no jurisdiction to close the dispute and if a consensus is not reached between the parties, the option open to the 2<sup>nd</sup> respondent is to submit a failure report. However, traversing on a different tangent, the 2<sup>nd</sup> respondent has closed the dispute. It is the further case of the petitioners that the 3<sup>rd</sup> respondent is intending reopening the factory and restart operations and in that event the petitioners should be taken back into employment, which the 3<sup>rd</sup> respondent is not adhering to, which is nothing but indulging in unfair labour practice. The failure of the 2<sup>nd</sup> respondent to submit a failure report and submitting the



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report by closing the dispute, and aggrieved thereby, the present petition has been filed.

9. Learned counsel appearing for the petitioners submitted that when clause 1.9 of the Settlement, which is entered into between the CITU Union and the 3<sup>rd</sup> respondent clearly provides that the Settlement will come into force only after the conduct of the General Body Meeting of the Union on 13.2.2015, in which General Body, the majority workers have turned down the Settlement, the mere signing of the Settlement by the 3<sup>rd</sup> respondent and the CITU Union cannot be acted upon. The intention of the parties in signing the Settlement assumes significance and when the clause provides a particular manner in which the settlement will be acted upon, it has to be acted upon in the said fashion and when the majority have rejected the settlement, it cannot be thrust upon the petitioners.

10. It is the further submission of the learned counsel that in the dispute raised by the workers before the 2<sup>nd</sup> respondent, there being no consensus between the parties, the mere fact that the Settlement has been



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signed by the 3<sup>rd</sup> respondent and the CITU Union cannot be a ground to close the dispute, as the 2<sup>nd</sup> respondent is not vested with jurisdiction to close the dispute, but only record a compliance or failure report with regard to the dispute. In the case on hand, there being no consensus, the only course open to the 2<sup>nd</sup> respondent was to submit a failure report and the closure report filed by the 2<sup>nd</sup> respondent is wholly perverse, illegal and unsustainable.

11. It is the further submission of the learned counsel that Section 2A (2) of the Industrial Disputes Act enables a worker to file a dispute and in the said dispute the conciliation officer after talks, in the absence of any consensus, is bound to return a failure report and place the same to the Government for adjudication and, thereafter, it is for the Labour Court to decide the validity of the termination and also the validity of the settlement, which has been rejected by the workers in the General Body on 13.2.2015. When there is no consensus, the report of closure by the 2<sup>nd</sup> respondent is wholly without jurisdiction.



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12. It is the further submission of the learned counsel that the validity of the Settlement, which is relied on by the 3<sup>rd</sup> respondent cannot be adjudicated by the 2<sup>nd</sup> respondent and it has to be adjudicated only by the Labour Court. Therefore, necessarily the 2<sup>nd</sup> respondent ought to have submitted a failure report.

13. It is the further submission of the learned counsel that the settlement dated 12.2.2015 u/s 18 (1) of the ID Act cannot be relied on by the 3<sup>rd</sup> respondent as the said settlement itself was subject to the majority opinion in the General Body. The General Body Meeting dated 12.2.2015 having rejected the settlement, the said settlement cannot be relied on by the 3<sup>rd</sup> respondent. Merely because the office bearers of the Union have signed the settlement does not make the settlement a concluded one, more so, when even as per the settlement, it is subject to the decision in the General Body.

14. In fine, it is the submission of the learned counsel that the clause of the Settlement having provided that the outcome of the General Body would give validity to the settlement and the General Body having rejected the



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settlement, the said settlement cannot be acted upon and in the light of the above, the closure report of the 2<sup>nd</sup> respondent is wholly illegal, unreasonable, perverse and unsustainable and, therefore, the same deserves to be set aside.

15. In support of the aforesaid contentions, learned counsel for the petitioner placed reliance on the following decisions :-

- i) *Management of Hatsun Agro Products – Vs – Labour Officer, Salem & Ors. (2007 (2) LLN 702);*
- ii) *Brooke Bond India Ltd. – VS – Workmen (1981 (3) SCC 493);*
- iii) *S.Ramesh & etc. – Vs – Commissioner of labour & Ors. (2009 SCC OnLine Mad 3181); and*
- iv) *Management of Hatsum Agro Product Ltd. – Vs – Labour Officer & Anr. (2020 SCC OnLine Mad 2917)*

16. Per contra, learned senior counsel appearing for the 3<sup>rd</sup> respondent submits that clause 1.1. of the Settlement clearly spells out that no operator shall raise any dispute either individually or through Union before Conciliation Authority/Labour Court/Tribunal or any other Court on the



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agreed terms of Settlement. The said clause being a mandatory clause, the workmen are estopped from raising any dispute with regard to the terms agreed upon in the settlement. Clause 1.8 also further provides that any dispute raised by an individual or union pending before conciliation authority shall also not be pressed, which is also mandatory to make the settlement a concluded one. The Union to which the petitioners belong, being a majority Union, having accepted and signed the settlement, the workmen being members of the said Union cannot now turn back and claim that that the Settlement is not valid as it was rejected in the General Body.

17. It is the further submission of the learned senior counsel that clause 1.9 of the Settlement merely speaks about the coming into force of the Settlement after the General Body Meeting of the Union on 13.2.2015. The said clause nowhere speaks that the settlement is subject to the approval of the General Body. The petitioners cannot read the clause to mean that the said settlement is subject to the approval of the majority in the General Body.



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18. It is the further submission of the learned senior counsel that the settlement has not been challenged by the Union which entered into the settlement and the conciliation officer has also closed the dispute as it is no longer maintainable. The Union having raised the dispute and the Union having entered into the settlement, it is not open to the individual members of the Union, who were collectively represented by the Union to reject the settlement after it was signed. It is the further submission of the learned senior counsel that pursuant to the settlement, the workers have also been paid the amounts by bank transfer and they are bound by the settlement and have no right to refuse the payment.

19. It is the further submission of the learned senior counsel that even in respect of the disputes filed by the petitioners u/s 2-A of the ID Act, the petitioners have not referred to the resolution in the general body meeting, which has a nexus with the settlement.

20. It is the further submission of the learned senior counsel that the validity of a settlement could only be the subject matter of another industrial



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dispute u/s 10 in respect of a dispute raised u/s 2 (k) of the ID Act by the trade union and the industrial dispute u/s 2-A of the ID Act by the workman before the Labour Court, the Labour Court would have no jurisdiction to decide the validity of the settlement. Only the individual grievances of the workman would be the subject matter of adjudication u/s 2-A and not with regard to the settlement entered into by the Union with the Management.

21. It is the further submission of the learned senior counsel that u/s 12 (4), a reference could only be made where no settlement is arrived at. However, in the case on hand, the settlement having been arrived at even on 12.2.2015, validly entered into between the office bearers of the Union and the 3<sup>rd</sup> respondent, the refusal of the petitioners to the said settlement would in no way render the settlement to be void.

22. In fine, it is the submission of the learned senior counsel that the Union having entered into the settlement on behalf of its workmen, the workmen are estopped from challenging the said settlement by raising individual industrial disputes and the 2<sup>nd</sup> respondent has carefully considered



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the said fact in relation to the relevant provisions of the ID Act and has closed the conciliation proceedings and, therefore, no interference is warranted with the said order.

23. In support of the aforesaid contentions, learned senior counsel placed reliance on the following decisions :-

- i) *P.Virudhachalam & Ors. – Vs - The Management of Lotus Mills & Anr.;*
- ii) *United Labour Federation – Vs -0 The Government of Tamil Nadu & Ors. (2010 (4) U.P.L.J. 109 (HC); and*
- iii) *Rahman Industries Pvt. Ltd. – Vs – State of UP & Ors. (2016 (12) SCC 420)*

24. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing for the parties and perused the materials available on record as also the decisions relied on in support of the respective contentions.

25. The fact that the settlement had been entered into between the majority Union and the 3<sup>rd</sup> respondent is not in dispute. Also there is no



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dispute with regard to the fact that the petitioners are members of the majority Union, which had entered into the settlement u/s 18 (1) along with the other two minority Unions. The said settlement had been entered into wherein the signatures have been subscribed to the said settlement by the 3<sup>rd</sup> respondent as also the officer bearers of the respective Unions on 12.2.2015.

26. The whole genesis of the case of the petitioners revolve around the fact that clause 1.9 of the Settlement entered u/s 18 (1) mandates that the settlement could be acted upon only upon convening of the General Body of the CITU Union and the majority members opting for its acceptance. For a better appreciation of the issue, the relevant clause is quoted hereunder :-

*“1.9. This settlement will come to force only after the employees’ General Body Meeting is being completed by the 3 Unions on 13.02.2015.”*

27. A careful perusal of clause 1.9 reveals that what is spelt out therein is that the Settlement would come into force only after the conduct and completion of the General Body Meeting of the three Unions on 13.2.2015.



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28. As aforesaid, 3 trade Unions have entered into the Settlement and, therefore, there is a stipulation in the said Settlement that the settlement would come into force upon completion of the General Body. Nowhere, in the said Settlement, more particularly, clause 1.9, there is any specific provision that the opinion of the majority in the General Body would be the basis on which the settlement could be acted upon. The view of the majority was not the determinant factor for putting the settlement into operation.

29. When once the Settlement has been entered into by the 3<sup>rd</sup> respondent and the officer bearers of the CITU Union subscribing their signatures to the settlement, unless the said Settlement is put in issue by the Union, no individual could raise any dispute with regard to the terms of the settlement. In this regard, useful reference could be had to the decision of the Apex Court in *Virudhachalam's case (supra)*, wherein it has been held as under :-

*"In Barauni Refinery Paragatisheel Shramik Parishad vs. Indian Oil Corporation Ltd. & Ors. [AIR 1990 SC 1801], Ahmadi, J. as he then was, speaking for a Bench of two learned Judges of this Court had an occasion to consider the binding effect of*



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*such a settlement arrived at during conciliation proceedings in the light of Section 18 of the Act. The following pertinent observations, in this connection, were made :*

*"A settlement arrived at in the course of conciliation proceedings with a recognised majority union will be binding on all workmen of the establishment, even those who belonging to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority."*

30. In the case on hand, the settlement had been arrived at between the Union and the 3<sup>rd</sup> respondent on mutual agreement, which has been questioned by way of an industrial dispute, which has been closed by the 2<sup>nd</sup>



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respondent recording that the recognized Union had subscribed to the settlement and, therefore, nothing further survives for consideration. In fact, to put it more bluntly, without even a dispute, the Union and the 3<sup>rd</sup> respondent had entered into a Settlement and, therefore, there arises no necessity for the 2<sup>nd</sup> respondent to have ventured into any conciliation.

31. Countering the above decision, the decision in *Brooke Bond case (supra)*, is pressed into service by the petitioners. However, even a cursory perusal of the relevant portion relied on by the petitioners would negate the contention advanced by the petitioners and the said portion relied upon is quoted hereunder :-

*"..... The tribunal in support of the view taken by it relied on a decision of the Delhi High Court. In Hindustan Housing Factory Ltd. v. Hindustan Housing Factory Employees' Union and others, the High Court held:*

*".. the contention on behalf of the petitioner-company that the fact that the Memorandum of settlement was in the prescribed form and was signed by one or more of the office-bearers of the Union is by itself sufficient to make the settlement arrived at between the Management of the petitioner-company*



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*and the signatories binding on the Union and all its members, is untenable...*

*The language of [s. 18](#) (1) clearly shows that the settlement will be binding only "on the parties to the agreement." The definition of "settlement" in [s. 2](#) (p) of the Act also states that "settlement" means a settlement arrived at "between the employer and the workmen." So, normally in order that a settlement between the employer and the workmen may be binding on them, it has to be arrived at by agreement between the employer and the workmen. Where the workmen are represented by a recognised Union, the settlement may be arrived at between the employer and the Union. If there is a recognised Union of the workmen and the Constitution of the Union provides that any of its office-bearers can enter into a settlement with the Management on behalf of the Union and its members, a settlement may be arrived at between the employer and such office-bearer or bearers. But, where the Constitution does not so provide specifically, the officer-bearer or bearers who wish to enter into a settlement with the employer should have the necessary authorisation by the executive committee of the Union or by the workmen. A reading of rule 58 clearly shows that it presupposes the existence of a settlement already arrived at between the employer*



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*and the workmen, and it only prescribes the form in which the Memorandum of settlement should be, and by whom it should be signed. It does not deal with the entering into or arriving at a settlement. Therefore, where a settlement is alleged to have been arrived at between an employer and one or more office-bearers of the Union, and the authority of the office-bearers who signed the Memorandum of settlement to enter into the settlement is challenged or disputed, the said authority or authorisation of the office-bearers who signed the Memorandum of settlement has to be established as a fact, and it is not enough if the employer merely points out and relies upon the fact that the Memorandum of settlement was signed by one or more of the office-bearers of the Union."*

*(Emphasis Supplied)*

32. Though the aforesaid case is referred on behalf of the petitioners, the ratio laid down therein leans more in favour of the respondents than the petitioners. In the aforesaid decision it has been clearly held that the recognized Union of the workmen, insofar as the constitution of the Union provides the office bearers to enter into a settlement with the Management on behalf of the Union and its members, a settlement may be arrived at and



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only where the office bearers have no authorisation, such settlement entered into, cannot be acted upon.

33. In the case on hand, it is not the case of the petitioners that the constitution of the Union does not permit the office bearers to enter into a settlement with the 3<sup>rd</sup> respondent. Further, the office bearers of CITU Union, to which the petitioners are members, along with the other 2 minority Unions have entered into the settlement and such being the case, so long as the petitioners are not disputing the power of the office bearers to enter into the Settlement, the Settlement which has been entered into between the Union and the 3<sup>rd</sup> respondent would squarely stand attracted to the petitioners and the petitioners, laying claim on clause 1.9 of the Settlement, cannot try to wriggle out of the issue by importing something into the said clause that without the majority approval of the General Body, the Settlement cannot be acted upon.

34. It is to be pointed out that clause 1.9 of the Settlement only speaks about the coming into force of the settlement upon completion of the General



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Body of all the Unions. It does not speak about the majority view in the General Body which will be binding the settlement. In the absence of any such stipulation in the Settlement, nothing can be added or subtracted to the said clause 1.9 to the benefit of the petitioners, when such is not the intent with which the settlement has been entered into.

35. Further, it has been the consistent view of the courts that so long as there is no ambiguity in a particular clause, which does not require interpretation, nothing requires to be added or deleted from the said clause for purposive interpretation of the said clause. Clause 1.9 of the Settlement being clear and unambiguous, the attempt on the part of the petitioners to add something into the said clause to the effect that the majority view in the General Body would also decide the validity of the settlement is something which is not envisaged in clause 1.9 and, therefore, the said contention deserves to be rejected at the threshold.

36. In fact, it is no where the case of the petitioners that the Union, through its office bearers was not empowered to undertake any negotiations



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or to enter into any settlement. No by-law have been pointed out to show that there is such a stipulation, which would render the Settlement void. The contention of the petitioners is only on the ground that the majority in the Union do not want to sail with the settlement and, therefore, Section 2A (2) of the ID Act provides the petitioners with the ammunition to raise an industrial dispute.

37. However, it is evident that finding the Settlement is valid in the eye of law the 2<sup>nd</sup> respondent has rightly rejected the case of the petitioners and closed the dispute as the 2<sup>nd</sup> respondent has come to the correct finding that the Settlement has been validly entered into by the 3<sup>rd</sup> respondent and the Union, which is not only a recognized Union, but also the majority Union. Further, failure report can be filed by the 2<sup>nd</sup> respondent only if no settlement is arrived at. However, in the case on hand, the whole dispute is with regard to the settlement arrived at between the Union and the 3<sup>rd</sup> respondent. That being the undisputed position, the submission of the petitioners to the contrary cannot be entertained.



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38. Further, what is to be pointed out is that no industrial dispute can be raised by the individual workmen with regard to a Settlement entered into between the Management and the recognized Union and it is the Union alone, which is vested with right to question the said Settlement. In the case on hand, the recognized Union, which has the majority, has entered into the Settlement with the 3<sup>rd</sup> respondent and, therefore, the individual workmen have no right to raise any industrial dispute by invoking the provision of Section 2A (2) of the ID Act. In this regard, useful reference can be had to the decision of the Apex Court in *Virudhachalam's case (supra)*, wherein the Apex Court held thus :-

*"..... In this connection, it is profitable to keep in view a decision of three-member Bench of this Court in the case of [Ram Prasad Vishwakarma vs. Chairman Industrial Tribunal, Patna & Ors.](#) [AIR 1961 SC 857] where in Das Gupta, J, speaking for this Court made the following pertinent observations on the scheme of the Act, at the time when [Section 2A](#) was not on the statute book :-*

*"It is now well settled that a dispute between an individual workman and an employer cannot be an industrial dispute as defined in section 2(k) of the Industrial Disputes Act unless it is taken up by a Union of the workmen or by a considerable number of*



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*workmen. In Central Provinces Transport Service Ltd. vs. Raghunath Gopal, 1956 SCR 956 : (S) AIR 1957 SC 104), Mr. Justice Venkatarama Ayyar speaking for the Court pointed out after considering numerous decision in this matter that the preponderance of judicial opinion was clearly in favour of the view that a dispute between an employer and a single employee cannot per se be an industrial dispute but it may become one if it is taken up by a union of a number of workmen.”*

39. From the ratio laid down above, it is implicitly clear that that the workmen cannot raise an individual dispute within the meaning of industrial dispute and it is only the Union, which could raise a dispute with the management as defined u/s 2 (k). That being the undisputed position, even for the sake of argument if it is to be stated that the 2<sup>nd</sup> respondent could have issued a failure report, it would serve no purpose, as the workmen could not raise an industrial dispute within the meaning of Section 2 (k) of the ID Act moreso, when the Union has not raised the dispute and the Union had entered into the Settlement with the 3<sup>rd</sup> respondent.



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40. For all the reasons aforesaid, the 2<sup>nd</sup> respondent has holistically considered the entire issue and had passed the impugned order, which is within the provisions of law and no fault can be found with the said order. Therefore, the case of the petitioners does not merit acceptance and the same deserves to be rejected.

41. Accordingly, the writ petition fails and the same is dismissed. There shall be no order as to costs.

**14.07.2023**

Index : Yes / No

GLN

To

1. The Prl. Secretary to Government  
Ministry of Labour & Employment  
Government of Tamil Nadu  
Secretariat, Fort St. George  
Chennai 600 009.

2. Assistant Labour Commissioner  
Sriperumbudur (Conciliation) – 1  
Irungattukottai, Sriperumbudur Taluk  
Kanchipuram District 602 117.



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**M.DHANDAPANI, J.**

**GLN**

**PRE-DELIVERY ORDER IN  
W.P. NO. 5008 OF 2016**

**Pronounced on  
14.07.2023**